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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,933	01/16/2004	Johann Heinrich Cuhls	AUS920030598US1(4341)	8215

87788 7590 11/10/2009

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EXAMINER	
JOSEPH, TONYA S	

ART UNIT	PAPER NUMBER
3628	

MAIL DATE	DELIVERY MODE
11/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/759,933	CUHLS ET AL.	
	Examiner	Art Unit	
	TONYA JOSEPH	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 August 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *26-32,34 and 35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *26-32 and 34-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

Claims 26-33 have been previously examined. Claims 26-29 have been amended. Claim 33 has been cancelled. Claims 34-45 have been added. Thus, claims 26-32 and 34-35 are presented for examination.

Response to Arguments

Applicant's arguments with respect to claims 26-33 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 26-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's claims have been amended to recite, "estimating, by the queue manager, a time remaining until said first patron will be served based on historical data corresponding to serving groups of a same size as a party of the first patron". While, Applicant's specification describes historical data corresponding to large seating may be used, it does not describe specific types of data as recited in the claim language. Appropriate Correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 26, 31, 34, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waytena et al. U.S. Patent No. 5,978,770 A1 in view of Paxton et al. U.S. Pre-Grant Publication No. 20020007292 A1 in further view of Knapp et al. U.S. Patent No. 6,829,583 B1.

5. As per Claims 26, 34 and 41, Waytena teaches receiving a queue entry request, wherein said queue entry request comprises patron-supplied personal contact information, wherein said queue entry request further comprises a position in said queue at which point a patron is to be notified (see Col. 13 lines 60-65) and a number of patrons in a party (see Col. 2 lines 53-65 and Col. 7 lines 1-30); placing said patron at a next available position in said queue (see Col. 3 lines 16-24); updating a position of said patron in said queue when another patron in said queue has been served (see Col. 3 lines 45-54); notifying said patron, using said patron-supplied contact information, upon said patron reaching said position in said queue at which said patron is to be notified, of a current position of said patron in said queue (see Col. 18 lines 38-48); notifying said patron of an estimate time at which said patron will be served (see Col. 13 lines 29-32; 62-65). Waytena does not explicitly teach the limitation taught by Paxton selecting

another patron to be served from said queue, wherein the another patron is selected based on position of the another patron in said queue and data provided in said queue entry request of the another patron (see para. 53 and 54). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Waytena to include the teachings of Paxton to advance customers in a queue. Waytena does not explicitly teach the limitation taught by Knapp, estimating, by the queue manager, a time remaining until said first patron will be served based on historical data corresponding to serving groups of a same size as the party of the first patron (see Col. 5 lines 46-65; Col. 6 lines 1-2 and Col. 4 lines 59-65). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Waytena and Paxton to include the teachings of Knapp to estimate an average service delay which takes into account varied adjustment factors.

6. As per Claims 31 and 39, Waytena in view of Paxton in further view of Knapp teaches the method of claim 26 as described above. Waytena does not explicitly teach the limitation taught by Paxton wherein said queue entry request is received via a web page (see para. 36). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Waytena to include the teachings of Paxton to enable request to be sent via web.

7. Claims 27, 29, 32, 35, 37, 40, 42 and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waytena et al. U.S. Patent No. 5,978,770A1 in view of Paxton et al. U.S. Pre-Grant Publication No. 20020007292 A1 in further view of Knapp

et al. U.S. Patent No. 6,829,583 B1 and Matsubayashi et al. U.S. Pre-Grant Publication No. 2003/0093670 A1.

8. As per Claims 27, 35 and 42, Waytena in view of Paxton teaches the method of claim 26 as described above. Waytena further teaches notifying, by the queue manager, said patron, using said patron-supplied contact information, upon said patron reaching said top position in said queue, that said patron is ready to be served (see Col. 12 lines 29-32). Waytena does not explicitly teach the limitation taught by Matsubayashi and starting, by said queue manager, a timer to count a first duration of time after said patron is notified that said patron is ready to be served (see para. 19 and 167). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Waytena and Paxton to include the teachings of Matsubayashi to allow a customer to determine if he wants to access a resource.

9. As per Claims 29, 37 and 44, Waytena in view of Paxton in further view of Matsubayashi teaches the method of claim 27 as described above. Waytena does not explicitly teach the limitation taught by Matsubayashi placing, by said queue manager, said patron at an end of said queue if said patron does not respond to said notification that said patron is ready to be served prior to an expiration of said first duration of time (see para. 167 and 171). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Waytena, Paxton and Matsubayashi to further include the teachings of Matsubayashi to prevent idle time on queued resources.

10. As per Claims 32, 40 and 45, Waytena in view of Paxton teaches the method of claim 26 as described above. Waytena further teaches wherein said patron represents a party of more than one person (see Col. 7 lines 9-14). Waytena does not explicitly teach the limitation taught by Matsubayashi wherein a position of said patron is swapped with a position of another patron if said patron's party cannot be accommodated (see para. 177). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Waytena and Paxton to further include the teachings of Matsubayashi to ensure proper seating allocation.

11. Claims 28, 36 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waytena et al. U.S. Patent No. 5,978,770A1 in view of Paxton et al. U.S. Pre-Grant Publication No. 20020007292 A1 in further view of Knapp et al. U.S. Patent No. 6,829,583 B1 and Matsubayashi et al. U.S. Pre-Grant Publication No. 2003/0093670 A1 and Deh-Lee U.S. Pre-Grant Publication No. 2005/0010357 A1.

12. As per Claim 28, 36 and 43, Waytena in view of Paxton in further view of Matsubayashi teaches the method of claim 27 as described above. Although, Matsubayashi teaches de-queuing said patron from said queue if said patron is ready to be served prior to an expiration of said first duration of time (see para. 166-167 and 179, Examiner is interpreting a user that has been granted exclusive control, selecting a print option as a patron responding to a notification). Matsubayashi doesn't explicitly teach de-queuing in response to a patron responding, however, it is old and well known for patrons to respond to notifications and for service providers to act on their response. For Example, Deh-Lee teaches a customer being provided notification of a service

provider's arrival and the subsequent re-scheduling of an appointment (see para. 13). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Waytena, Paxton and Matsubayashi to further include the teachings of Matsubayashi and Deh-Lee to advance a queue when a customer is being serviced.

13. Claims 30 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waytena et al. U.S. Patent No. 5,978,770A1 in view of Paxton et al. U.S. Pre-Grant Publication No. 20020007292 A1 in further view of Knapp et al. U.S. Patent No. 6,829,583 B1 and Piccionelli U.S. Pre-Grant Publication No. 2002/0107965 A1.

14. As per Claim 30 and 38, Waytena in view of Paxton teaches the method of claim 26 as described above. Waytena does not explicitly teach the limitation taught by Piccionelli wherein said queue entry request is received via a electronic mail (see para. 28 and 30). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Waytena and Paxton to include the teachings of Piccionelli to allow patrons to submit request through varying channels.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TONYA JOSEPH whose telephone number is (571)270-1361. The examiner can normally be reached on Mon-Fri, 7:30 am-5:00pm First Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571 272 0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628